

LIBELED: 7-26-65, M. Dist. Ala.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 9-15-65. Default—destruction.

30215. Donut flour. (F.D.C. No. 50839. S. No. 5-612 A.)

QUANTITY: 141 100-lb. bags at Winston-Salem, N.C., in possession of E. G. Forrest Co., Inc.

SHIPPED: 7-9-64, from Lincoln, Nebr.

LIBELED: 11-20-64, M. Dist. N.C.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-7-65. Consent—claimed by E. G. Forrest Co., Inc., and converted into animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

30216. Wheat. (Inj. No. 493.)

COMPLAINT FOR INJUNCTION FILED: 6-24-64, Dist. S. Dak., against Wetonka Equity Exchange, a corporation, Wetonka, S. Dak., James Blomster, president, and Leslie O. Holland, manager.

CHARGE: The complaint alleged that the defendants were engaged in operating a grain elevator facility which included a wooden crib-type elevator sheathed with corrugated sheet metal and lined with concrete in the areas under the main dump pit and boot pit, and denominated as Elevator No. 1, and a wooden crib-type grain elevator sheathed with wooden siding, denominated as Elevator No. 2, for the storage and distribution of wheat for human consumption,

The complaint alleged further that the wheat consisted in part of a filthy substance by reason of the presence of mice, insects, bird excreta, and rodent excreta in the food; and that such food had been and was then being held at the defendants' grain elevator facility at Wetonka, S. Dak., under insanitary conditions whereby it might have become contaminated with filth, thereby rendering such food adulterated within the meaning of 402(a)(3) and 402(a)(4); that insanitary conditions of the defendants' grain elevator facility at Wetonka, S. Dak., resulted from and consisted of the presence in the wooden crib-type grain elevator sheathed with wooden siding and denominated as Elevator No. 2 of the following: on and adjacent to the main floor of Elevator No. 2, 2 live mice in the northwest corner of bin No. 12, 1 dead mouse in the grain cleaner, 4 rodent holes in the south wall at the level of the main floor, approximately 6 rodent pellets in an area of less than $\frac{1}{4}$ square foot on the floor adjacent to the bottom of bin No. 11, a rodent hole in the northwest corner of bin No. 12 approximately 12 inches from the floor, approximately 6 rodent pellets in a $\frac{1}{4}$ square foot area adjacent to bin No. 1, 4 holes in the outside wall along the south side of the driveway and 3 feet above the driveway, approximately 50 rodent pellets in an area of less than $\frac{1}{2}$ square foot proximate to the bottom of bin No. 11, a hole approximately 5 inches in diameter beneath the south side of the elevator, a hole approximately $1\frac{1}{2}$ inches in diameter in the southeast corner of the elevator foundation, an outside south door leading underneath the elevator cracked open ap-

proximately 1½ inches, and a dead mouse in the boot pit; in and about the bins of Elevator No. 2, more than 15 rodent pellets per pint in every sample collected from the grain surface, insects or insect larvae or cast skins in more than three-fourths of such samples, bird droppings or bird feathers or a piece of bird wing in more than one-third of such samples, approximately 308 rodent pellets per pint of surface wheat in the northwest corner of bin No. 4, and approximately 68 rodent pellets per ½ pint of surface wheat in the northeast corner of bin No. 11, a rodent hole in bin No. 4 at the roof-wall junction 4 feet from the north wall, a rodent nest in the surface wheat at the southeast corner of bin No. 4, a rodent nest on the surface grain of bin No. 1, 4 feet from the south wall and 3 feet from the west wall, a live mouse on the wall plate at the back of bin No. 1, a rodent hole at the roof-wall junction 4 feet from the south wall of bin No. 1, a live mouse about a crack in the bottom of the door frame of bin No. 1, a dead mouse in the surface grain of bin No. 9, and rodent tracks on the surfaces of all binned grain; in and about the head house of Elevator No. 2, old grain residue up to ½ foot deep about the bin selector, a bird entryway in the northeast corner at the roof-wall junction, a live bird in the head house, and bird droppings over the entire head-house floor; and in and about the gallery floor of Elevator No. 2, approximately 50 bird droppings on the floor between bins No. 9 and No. 11, and approximately 100 bird droppings in less than a ¼ square foot area below and 1 foot to the right of the south window.

DISPOSITION: On 6-24-64, a temporary restraining order was filed, and on 7-6-64, a decree of preliminary injunction was filed.

The decree enjoined the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food, which was adulterated within the meaning of 402(a) (3) in that it consisted in part of a filthy substance, and 402(a) (4) in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

The decree further enjoined the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food for human consumption held at defendants' wooden crib-type grain elevator sheathed with wooden siding and denominated as Elevator No. 2, at Wetonka, S. Dak., unless and until:

(a) the Elevator No. 2 was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat for human consumption and any similar article of food, namely, unless and until all rodents, insects, and birds and all the filth thereof, were removed from Elevator No. 2; all rodent, insect, and bird infestation in and about Elevator No. 2 was eliminated; the means of ingress and egress of Elevator No. 2 by rodents and birds were closed; and any similar insanitary conditions which might result in wheat for human consumption and any similar article of food being contaminated with filth while held at Elevator No. 2 were eliminated;

(b) all of the wheat which was on hand at Elevator No. 2 at the time Elevator No. 2 was cleaned, renovated, and rendered suitable for the storage of food for human consumption was destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a duly

authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare.

On 8-13-65, after it was found that the defendants would not be using Elevator No. 2 for the storage of grain in the future and that the defendants had complied with the injunction with respect to the wheat on hand, the injunction was dissolved and the case dismissed pursuant to stipulation of the parties.

30217. Wheat. (F.D.C. No. 50912. S. No. 122-551 A.)

QUANTITY: 113,920 lbs. of wheat at Minneapolis, Minn.

SHIPPED: 12-11-64, from Faith, S. Dak., by Bagley Grain Co.

LIBELED: 1-7-65, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 1-13-65. Consent—claimed by Bagley Grain Co., Minneapolis, Minn., and denatured.

30218. Wheat. (F.D.C. No. 51166. S. No. 28-408 B.)

QUANTITY: 130,000 lbs. at Minneapolis, Minn.

SHIPPED: 3-15-65, from Michigan, N. Dak., by Lamb Elevator Co.

LIBELED: 4-14-65, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 4-27-65. Consent—claimed by Lamb Elevator Co., Michigan, N. Dak., and denatured for use as seed grain.

30219. Wheat. (F.D.C. No. 51198. S. No. 9-291 B.)

QUANTITY: 90,000 lbs. at Spokane, Wash.

SHIPPED: 5-11-65, from Toston, Mont., by Teslow, Inc.

LIBELED: 5-21-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent pellets when shipped.

DISPOSITION: 5-27-65. Consent—claimed by Atwood Larson Co., Portland, Oreg., and denatured.

30220. Wheat. (F.D.C. No. 50727. S. No. 57-883 A.)

QUANTITY: 130,500 lbs. at Kansas City, Kans.

SHIPPED: 10-14-64, from Hildreth, Nebr., by Farmers Cooperative Grain & Livestock Association.

LIBELED: 10-28-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 11-25-64. Consent—claimed by Farmers Union Cooperative Marketing Association. Segregated; 26,940 lbs. denatured.